

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1851 of 2012

IN

Civil Writ Jurisdiction Case No. 6211 of 2006

- =====
1. The State of Bihar through Chief Secretary, Old Secretariat, Patna.
 2. The Secretary, Water Resources, Development Deptt. Govt. of Bihar, Patna.
 3. The Joint Secretary, Water Resources Development Deptt. Govt. of Bihar, Patna
 4. The Deputy Secretary, Water Resources Development Deptt. Govt. of Bihar

.... Respondents- Appellants

Versus

Namonath Mishra, S/O - Late Arjun Mishra, Resident of Road No. 3, Krishna Toli,
Brahmpura, P.S. - Brahmpura, Dist. Muzaffarpur

.... Petitioner-Respondent

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Appearance :

For the Appellants : Mr. Sanjay Kumar, A.C. to A.A.G.-6

For the Respondents : Mr. Gajanan Arun, Advocate

Mr. Gajendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-03-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 10th of November, 2010, whereby the writ application filed by the respondent herein was allowed and direction was issued to pay extra 20% of the basic pay for discharging the duties and responsibilities of the higher post.

2. The respondent herein was substantively in the rank of Superintending Engineer, but he was made to officiate as Chief Engineer from 09.12.1995 to 31.08.1997. A letter was issued by the



Joint Secretary, Water Resources Department, Government of Bihar on 2nd September, 2006 granting benefit of 20% extra pay to the writ petitioner for having shouldered higher responsibility of the post in question, but the said benefit was not granted for the reason that there is a Circular dated 28th November, 2005 restricting the extra pay to Rs.250/- only.

3. The learned Single Bench has allowed the writ application holding that the writ petitioner- respondent herein shall be entitled for the payment of extra 20% of the basic pay.

4. Learned counsel for the appellants vehemently argued that the Circular contemplated extra pay of Rs.250/- only; and that the writ petitioner-respondent herein could not be promoted to the post of Chief Engineer on account of departmental delays. Therefore, it was not an intentional denial of promotion, but due to the factors beyond the control of the department, which led to the delay in the promotion of the writ petitioner-respondent.

5. It is not disputed that in fact, the writ petitioner-respondent has discharged the duties and responsibilities of the higher post, that is of Chief Engineer. Since he has discharged the duties and responsibilities of the higher post, he shall be entitled to pay attached to the higher post. Such is the judgment of the Hon'ble Supreme Court in the case of *Smt. P. Grover Versus State of Haryana and Anr*, AIR 1983

SC 1060, but in fact, the department has restricted the benefit to extra 20% of the basic pay vide Circular dated 02.09.2006. Even such benefit has been denied to the writ petitioner-respondent. We find that the denial of such benefit is wholly illegal and has been rightly set aside by the learned Single Bench of this Court.

6. We do not find any error in the order passed by the learned Single Bench of this Court which may warrant interference in the present Letters Patent Appeal.

7. The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

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